

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

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| <p>In re:</p> <p>NationsRent, Inc., et al.,¹</p> <p style="text-align: center;">Debtors.</p> | <p>Case Nos. 01-11628 through 01-11639 (PJW)</p> <p>Jointly Administered</p> <p>Chapter 11</p> |
| <p>NationsRent Unsecured Creditor's Liquidating Trust, Perry Mandarino, not personally, but as Trustee</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>3-D/Costal Oil Company</p> <p>4 Star Air Hydraulics & Ind.</p> <p>Action Tire Company</p> <p>ADA Resources Inc.</p> <p>Advanced Tire Inc.</p> <p>Ael Leasing Co., Inc.</p> <p>Agovino & Asselta, LLP</p> <p>Airdyne Management Inc.</p> <p>Allen Oil Company of Sylacauga, Inc.^{1(a)}</p> <p>Alternators Unlimited Reb.</p> <p>A.O.K. Tire Mart II, Inc.</p> <p>Archie's Truck Service</p> <p>Arrow Master, Inc.</p> <p>ASAP Equipment Rental & Sales</p> <p>Authorized Equipment, Inc.</p> | <p>District Court Case Nos. (KAJ):</p> <p>04-CV-1033</p> <p>04-CV-1030</p> <p>04-CV-1031</p> <p>04-CV-976</p> <p>04-CV-713</p> <p>04-CV-767</p> <p>04-CV-1035</p> <p>04-CV-714</p> <p>04-CV-801</p> <p>04-CV-988</p> <p>04-CV-766</p> <p>04-CV-1158</p> <p>04-CV-1160</p> <p>04-CV-716</p> <p>04-CV-784</p> |

¹ NationsRent USA, Inc., NationsRent Transportation Services, Inc., NR Delaware, Inc., NRG, Inc., NationsRent West, Inc., Logan Equipment Corp., NR Dealer, Inc., NR Franchise Company, Inc., NationsRent of Texas, LP, and NationsRent of Indiana, LP

^{1(a)} Caption continued on the following pages.

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| Diamant Boart Inc. | 04-CV-1104 |
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Worcester Truck Body Co., Inc.
 World Wide Welding & Press Inc.
 Defendants.

04-CV-1168

04-CV-1103

Hearing Date: May 16, 2005 at 2:00 p.m.

**MOTION OF CREDITOR TRUST TRUSTEE FOR AN ORDER
 SCHEDULING AN INITIAL PRETRIAL CONFERENCE IN THE
 ABOVE-CAPTIONED AVOIDANCE ACTIONS ON MAY 16, 2005 AT 2:00 P.M.**

The NationsRent Unsecured Creditors Liquidating Trust (the "Creditor Trust"), by and through its undersigned counsel, hereby moves (the "Motion") this Court, pursuant to Federal Rule of Civil Procedures 16(a) and Rule 16.2(a) of the Local Rules of Civil Practice and Procedure for the United States District Court for the District of Delaware, for an order scheduling an initial pretrial conference in the above-captioned avoidance actions on May 16, 2005 at 2:00 p.m. (the "Initial Conference"). In support of this Motion, the Creditor Trust states as follows:

BACKGROUND

1. On December 17, 2001 (the "Petition Date"), NationsRent, Inc. and certain of its direct and indirect affiliates (collectively the "Debtors") filed petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

2. The Debtors continued to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107 and 1108 of Bankruptcy Code.

3. On May 14, 2003, this Court entered an order confirming the First Amended Joint Plan of Reorganization of NationsRent, Inc. and its Debtor Subsidiaries,

dated as of February 7, 2003, as modified (the "Plan"). The Plan became effective on June 13, 2003 (the "Effective Date").

4. Pursuant to the Plan, the Creditor Trust was established as of the Effective Date and was granted the right to, among other things, pursue avoidance actions under section 547 of the Bankruptcy Code.

5. Between December 11, 2003, and December 16, 2003, the Creditor Trust filed approximately 465 complaints (the "Preference Actions") in the Bankruptcy Court seeking to avoid and recover preferential payments made by the Debtors to their creditors within 90 days of the Petition Date pursuant to sections 547 and 550 of the Bankruptcy Code.

6. On or about June 29, 2004 and August 25, 2004, the United States District Court for the District of Delaware (the "District Court") withdrew the reference to the Bankruptcy Court of the unresolved Preference Actions, thereby assuming direct control over the cases.

7. Prior to the filing of this Motion, the Creditor Trust resolved approximately 250 of the original 465 Preference Actions without the need for any formal discovery or any intervention by the Bankruptcy Court or the District Court. No pretrial conferences have been conducted by the Bankruptcy Court or the District Court.

8. At this point, approximately 210 Preference Actions remain pending. The average amount of each Preference Action claim is approximately \$33,000.00. However, the 20 largest claims, or approximately 10% of the number of remaining Preference

Actions, account for nearly 45% of the total dollar amount of claims being pursued. Therefore, the average amount of each Preference Action claim, excluding the 20 largest claims, is approximately \$20,000.00.

JURISDICTION AND VENUE

9. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b).

RELIEF REQUESTED

10. The Creditor Trust seeks an order, pursuant to Rule 16(a) of the Federal Rules of Civil Procedure and D. Del. LR 16.2(a), (A) setting an initial pretrial conference before this Court on May 16, 2005 at 2:00 p.m.; and (B) fixing a scheduling conference to be conducted approximately four months thereafter.

11. Federal Rule 16(a) provides that, “[i]n any action, the court may in its discretion direct the attorneys for the parties and any unrepresented parties to appear before it for a conference or conferences before trial for such purposes as (1) expediting the disposition of the action. . . (3) discouraging wasteful pretrial activities . . . and (5) facilitating settlement of the case.” In addition, D. Del LR. 16.2(a) also contemplates the scheduling of an Initial Conference to address the nature of the case, any special difficulties, a proposed date for a scheduling conference and requests for modifying the mandatory disclosure requirements.

12. The Plaintiff submits that the scheduling of an Initial Conference is necessary and appropriate to facilitate the prompt and efficient resolution of the

remaining Preference Actions. As noted above, the average amount of each Preference Action claim is only \$33,000. Moreover, when the largest 20 claims are excluded, the average Preference Action claim is only \$20,000. In order to promote judicial economy and the efficient administration of justice, all reasonable efforts should be undertaken to attempt to settle each remaining Preference Action before the parties are required to engage in formal pretrial discovery and other potentially costly proceedings which would require Court involvement. Accordingly, the Plaintiff requests that the Court schedule an Initial Conference at which the Court would (a) direct the parties to engage in good faith negotiations and meet and confer sessions during the next four months; (b) fix a scheduling conference pursuant to Rule 16(b) of the Federal Rules of Civil Procedure and D. Del. LR. 16.2(b) to be conducted at the conclusion of the negotiation period; and, (c) address any other relevant issues. The attendance of attorneys for parties and any unrepresented parties at the Initial Conference is needed to facilitate the settlement and efficient administration of the remaining Preference Actions.

13. The Creditor Trust and its counsel will continue to attempt to resolve the remaining Preference Actions without Court intervention. Nonetheless, scheduling the Initial Conference will facilitate the timely resolution of the remaining Preference Actions and the identification of those matters that may require more extensive pretrial and trial proceedings.

NOTICE OF INITIAL CONFERENCE

14. Counsel for the Creditor Trust intends to serve, by regular first class mail, a copy of the Notice of the Initial Pretrial Conference, a copy of which is annexed hereto


as Exhibit "A", upon counsel for all parties that have filed a pleading in response to the complaints and upon the last known addresses of each defendant that has not filed a responsive pleading within two business days of the entry of such order.

15. The Creditor Trust submits that no notice of this Motion is required pursuant Federal Rule of Civil Procedure 16(a) and D. Del. LR. 16.2(a).

16. Pursuant to D. Del. LR. Rule 7.1.2(a), the Creditor Trust waives its right to brief this Motion but reserves the right to file a brief in reply to any objections filed to this Motion.

WHEREFORE, the Creditor Trust respectfully requests that the Court grant this Motion, set an initial pretrial conference on May 16, 2005 at 2:00 p.m. in the above-captioned cases, and grant such other and further relief as the Court deems just and proper.

Dated: April 19, 2005


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